

# M O S E R L A W C O .

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December 3, 2020

via First Class Mail

Hon. Lorna G. Schofield  
Thurgood Marshall Courthouse  
40 Foley Square  
New York, NY 10007

Re: ***Ulbricht v. United States of America***  
**Case No. 1:19-cv-07512-LGS**

Judge Schofield:

As a former federal law clerk and current pen pal of Ross Ulbricht, who is serving a double life sentence in a maximum security prison for the crime of creating a website, I am writing to urge you to grant a full hearing on this § 2255 motion and consider the grave miscarriage of justice that occurred largely because his trial counsel misapprehended the expansive scope of conspiracy liability.

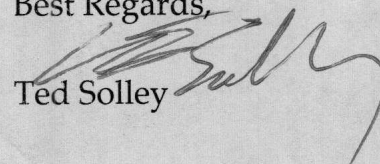
When I clerked, it was common for orders on *habeas corpus* motions to be drafted by staff attorneys who relied heavily on boilerplate. Ross Ulbricht deserves better.

Ross, a non-violent, first-time offender, is so sympathetic that over 350,000 people have signed his petition seeking clemency. I am enclosing a recent article by former NYC Police Commissioner Bernie Kerik that provides a good summary. There is exhaustive background material, including trial and appellate records, available at the [www.FreeRoss.org](http://www.FreeRoss.org) website.

I have read the briefing in this case and find it compelling, although that is obviously your department. I simply want to highlight the case in hopes that it receives your full attention.

Best Regards,

Ted Solley





## Newsmax

# Dysfunctional Justice System Inflicts Cruel, Unusual Sentences

Thursday, October 1, 2020 11:47 AM

**By: Bernard Kerik with Rod Blagojevich**

At 26 years-old, Ross Ulbricht made history, when he did something that many called genius — he wrote code and created a website called Silk Road.

It was the first modern online free market, where users could anonymously buy and sell goods and services, both legal and illegal.

As a result of his genius, today marks the eighth year anniversary of his federal prison incarceration in what is considered one of the worst travesties of our criminal justice system.

Ulbricht was targeted, investigated, and prosecuted with the zeal equaled to those like John Gotti, Osama bin Laden and Al Capone.

He was ultimately held responsible for everything users listed on his site and was convicted on all nonviolent charges, including conspiracy to traffic narcotics, money laundering conspiracy, and engaging in a continuing criminal enterprise.

Following his arrest in 2013, prosecutors also alleged that he planned murder-for-hire although, curiously, he was never charged or prosecuted for it at trial (and the allegations were dismissed with prejudice by a U.S. District Judge in 2018).

On May 29, 2015, now-retired Judge Katherine Forrest sentenced Ulbricht on five counts, all nonviolent. Her judgement for this first time, non-violent offender: two life terms, plus 40 years without parole!

*That sentence amounts to two death sentences, plus 40 years.*

At first glance, given the government's charges and allegations and some media coverage, some may assume that Ulbricht's sentence was reasonable.

However, having overseen and conducted investigations such as these, the more we examined the overall case — the allegations, the trial, and end result — something just didn't add up.

If Ulbricht's crimes really warrant life in prison, why was Blake Benthall — arrested on the same charges as Ulbricht for running the larger copycat Silk Road 2.0 — released after two weeks by the same people who prosecuted Ulbricht?

Why were two corrupt federal agents at the core of the investigation (with unfettered access to Silk Road) aggressively hidden from Ulbricht's jury?

Why were the largest Silk Road drug sellers sentenced to 10 years and less?

And if there were any tangible evidence that Ulbricht planned murder-for-hire, why didn't the government charge and prosecute him?

Surely, we'd know all this and more, but *no --- nothing.*



Now 36, Ross begins his eighth year in prison, today — Oct. 1.

He has been a model prisoner throughout his years of incarceration, teaching classes and tutoring his fellow inmates. He follows the rules and has never received a disciplinary infraction. Ross has expressed remorse and accepted responsibility for his actions.

He is the son of a loving mother of modest means who has relocated her home several times to be near the prison where her son is incarcerated.

We have each, in different ways, witnessed firsthand how unfair and dishonest our criminal justice system can be. Both of us have been the beneficiaries of President Donald Trump's compassion.

Commissioner Kerik was granted a presidential pardon, while Gov. Blagojevich had his 14-year prison sentence commuted.

We both join over 350,000 people who have signed their names to a petition to President Trump supporting Ross Ulbricht's release.

More than 250 organizations and prominent people from all across America — from the legal community, business community, religious community, education community, the media, Hollywood, current and former legislators, and human rights activists, have all spoken out in support of this clemency effort.

The Eighth Amendment to the United States Constitution expressly prohibits punishment that is too severe for the crime committed. It characterizes it as cruel and unusual.

Our nation extols the ideal of justice for all. But Shakespeare reminds us that there is no justice where there is no mercy, and Ross Ulbricht's case shows us that there cannot be justice for all when there is cruel punishment for some.

We respectfully ask that President Donald Trump do what only he can do: grant Ross Ulbricht clemency, to right this wrong, and end one of the greatest travesties of justice in American history.

*Rod Blagojevich served as the 40th Governor of Illinois.*

**As New York City's 40th Police Commissioner, Bernard Kerik was in command of the NYPD on September 11, 2001, and responsible for the city's response, rescue, recovery, and the investigative efforts of the most substantial terror attack in world history. His 35-year career has been recognized in more than 100 awards for meritorious and heroic service, including a presidential commendation for heroism by President Ronald Reagan, two Distinguished Service Awards from the U.S. Department of Homeland Security, The Ellis Island Medal of Honor, and an appointment as Honorary Commander of the Most Excellent Order of the British Empire by Her Majesty Queen Elizabeth II. Commissioner Kerik hosts a weekly radio show, Behind the Badge, on 77 WABC Radio New York. Read Bernard Kerik's Reports — [More Here.](#)**